



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/782,680

02/18/2004

Patrick Ladd

TWAR.005A

5211

27299 7590 01/19/2011  
GAZDZINSKI & ASSOCIATES, PC  
16644 WEST BERNARDO DRIVE  
SUITE 201  
SAN DIEGO, CA 92127

EXAMINER

PHAN, TUANKHANH D

ART UNIT

PAPER NUMBER

2163

MAIL DATE

DELIVERY MODE

01/19/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/782,680	<b>Applicant(s)</b> LADD ET AL.	
	<b>Examiner</b> Tuan Khanh Phan	<b>Art Unit</b> 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11/08/2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 34, 46-54, 57-60 and 73-81 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34, 46-54, 57-60 and 73-81 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The Request for Continued Examination, filed on 11/08/2010, has been entered and acknowledged by the Examiner. Claims 34, 46-54, 57-60, and 73-81 are pending.

### ***Response to Arguments***

Applicant's arguments with respect to claims 34, 46-54, 57-60, and 73-81 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

Claims 34, 57-60, and 73-77 are objected because much patentable weight is not given to the functions. Claim 1 recites "adapted to/for" to perform a function are not positive limitations but only require the ability to so perform. Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. Since they are not positively recited, the claims do not constitute a limitation in any patentable sense.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 34, 46-54, 57-60, and 73-81 are rejected under 35 U.S.C. 102(e) as being anticipated by Logston et al. (US Pat. 6,687,735), hereinafter Logston.

Regarding claim 34, Logston discloses a head-end apparatus adapted for providing a network-specific on-demand application to consumer premises equipment (CPE) said network, the apparatus comprising:

- at least one computer (Figure 2); and

- at least one computer program adapted to develop a specific protocol useful in implementing said on-demand application according to the method comprising:

- developing a set of first components adapted to communicate between said head-end and said CPE, said communication comprising (Figure 3, Client DACP):

- establishing a communications session between said head-end and said CPE (Figure 3, communication between server and client);

- specifying to said CPE a channel on which on-demand content may be accessed by said CPE (Figure 3, client access on-demand content from the server); and

- sending or receiving at least one message regarding functional modes (col. 2, lines 65-67; server sending functional modes to client);

- developing a set of second components adapted to process said on-demand content delivered to said CPE (Figure 3); and

developing a set of third components adapted to cooperate with individual ones of said first and second components to control said functional modes specific to said on-demand application (col. 3, lines 8-12);

wherein each component of said set of first components, said set of second components, and said set of third components is associated with an individual one of a of different multiple systems operator (MSO) environments (col. 1, lines 53-56); and

wherein, in response to a request for a particular application from a CPE within an individual one of said plurality of different MSO network environments, said computer program of said head-end apparatus further selects for assembly and delivery individual ones of said set of first components, said set of second components, and said set of third components said selection comprising selection of individual ones of said sets specific to an individual one of said plurality of different MSO environments (col. 1, lines 58-62).

Regarding claims 46 and 73, Logston discloses a CPE adapted for operation within a content based network offering on-demand services according to at least one network-specific protocol, said CPE comprising:

a storage device (Figure 3); and

a digital processor operatively coupled to said storage device, said digital processor adapted to run at least one first software application stored on said storage device, said first software application having permissions from an OCAP monitor and

Art Unit: 2163

comprising a plurality of components adapted to, when executed on said processor (communication between client and server; Figure 3):

communicate between said CPE and another entity of said network (Figure 3);

process the content delivered to said CPE (col. 3, lines 15-20); and

enable a user of said CPE to control, via a user interface, playback of said content according to said network-specific protocol (col. 15, lines 1-5);

wherein at least one of said plurality of components comprises a shared component which is adapted to be utilized by one or more second applications also having permissions from an OCAP monitor and simultaneously running on said CPE (col. 18, lines 1-16).

Regarding claim 47, Logston discloses the CPE of Claim 46, wherein said CPE comprises a digital settop box (DSTB) with Java-based middleware, and said at least one first software application comprises at least one class and at least one interface disposed within an application directory hierarchy (col. 3, lines 8-10).

Regarding claim 48, Logston discloses the CPE of Claim 47, wherein said CPE is adapted to: receive said at least one first application over said network (Figure 3); and subsequent to said receipt, launch said at least one first application to configure at least one path to said at least one of said plurality of components.

Regarding claim 49, Logston discloses the CPE of Claim 48, wherein said CPE further comprises a plurality of said second applications, said plurality of said second

Art Unit: 2163

applications being enabled to access said at least one component via at least one of said at least one configured paths (col. 16, lines 25-39).

Regarding claims 50 and 78, Logston discloses a method of developing the specific protocol useful for delivery of content from a first node of a network to a second node thereof via a server entity of said first node, the method comprising:

receiving a plurality of media interface components, individual ones of said components adapted to implement different ones of a plurality of network-specific protocol (col. 3, lines 1-15);

developing a configured application by selecting individual ones of said plurality of components to be utilized within a single software application (col. 3, lines 1-15);; and

developing at least one path to said selected individual ones of said plurality of media interface components, said path being accessible only to authorized entities (col. 3, lines 1-15; col. 16, lines 25-39);

wherein said at least one path and said media interface components cooperate to provide network specific on-demand services (col. 3, lines 1-15; col. 16, lines 25-39); and

wherein multiple paths to said individual ones of said plurality of media interface components may be utilized to enable simultaneous use of said individual ones of said plurality of media interface components in multiple distinct software applications (col. 16, lines 25-39).

Regarding claim 51, Logston discloses the method of Claim 50, wherein said configured application is run on a consumer premises equipment (CPE) (Figure 3).

Regarding claim 52, Logston discloses the method of Claim 51, wherein said act of developing a plurality of media interface components comprises developing a plurality of Java Media Framework components (col 11, lines 50-65; support Java programs).

Regarding claim 53, Logston discloses the method of Claim 52, wherein said act of disposing said plurality of media interface components comprises disposing a plurality of classes and interfaces within the directory hierarchy structure of said application (col. 12, lines 30-37).

Regarding claim 54, Logston discloses the method of Claim 51, wherein said act of disposing said plurality of media interface components comprises: providing said components to said CPE; providing said software application to said CPE; and assembling said configured application at said CPE using at least said components and said software application (Figure 3; col. 3, lines 2- 22).

Regarding claim 55, Logston discloses the head-end apparatus of Claim 34, wherein at least one of said first set of components comprises a Java DataSource.

Regarding claim 58, Logston discloses the head-end apparatus of Claim 57, wherein at least one of said second set of components comprises a Java MediaHandler.

Regarding claim 59, Logston discloses the head-end apparatus of Claim 58, wherein at least one of said third set of components comprises a controller adapted to access said Java DataSource to cause said at least one message to be sent between said head-end and said CPE, said at least one message causing at least one corresponding functional mode to be invoked (col. 11, lines 50-65; support Java programs)..



Regarding claim 60, Logston discloses the head-end apparatus of Claim 34, wherein said act of developing said set of second components further comprises developing a player component adapted for implementing at least one of said set of second components (Figure 3; col. 3, lines 2- 22).

Regarding claims 72-77 and 79-81, see discussion of claims 46-59 above for the same reason of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan Khanh Phan whose telephone number is (571)270-3047. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/782,680

Page 9

Art Unit: 2163

/T. P./

Examiner, Art Unit 2163

/Wilson Lee/

Primary Examiner, Art Unit 2163

1-15-2011